

IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

JAMES E. WILLIAMS,
APPELLANT

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§

V.

NO.

THE STATE OF TEXAS,
APPELLEE

FILED
COURT OF CRIMINAL APPEALS
8/17/2018
DEANA WILLIAMSON, CLERK

MOTION FOR EXTENSION OF TIME FOR FILING OF STATE'S
PETITION FOR DISCRETIONARY REVIEW

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

The State requests that the Court grant an extension for thirty (30) days until September 17, 2018, to file the State's petition for discretionary review. The following allegations are made in support of this motion:

I.

The trial court is the 297TH Judicial District of Tarrant County, Texas, the Honorable David Hagerman, presiding. The style and number of the case in the trial court are: *State of Texas v. James E. Williams*, No. 1469951R.

II.

Appellant was charged with aggravated kidnapping. [CR 7, 231] Appellant pled not guilty. [CR 230, 261; 3 RR 8] Appellant was found guilty by the jury of attempted kidnapping. [CR 235, 261; 9 RR 6] Appellant was sentenced to two years state jail. [CR 258, 261] Judgment was entered on October 6, 2016. [CR 261]

III.

On July 19, 2018, the court of appeals issued a 2-1 panel decision affirming the trial court's judgment. *Williams v. State*, No. 02-17-00001-CR, 2018 WL 3468458 (Tex. App. – Fort Worth Jul. 19, 2018, no pet. h.) (mem. op., not designated for publication). Justice Pittman dissented, agreeing with the State that the appellate court did not have jurisdiction to reach the merits of Appellant's argument. *Williams v. State*, 02-17-00001-CR, 2018 WL 3469635 (Tex. App. – Fort Worth Jul. 19, 2018, no pet. h.) (mem. op., not designated for publication).

The State's petition for discretionary review is therefore due on Monday, August 20, 2018. *See* TEX. R. APP. P. 68.2(a). This is the State's first motion for extension of time to file a petition for discretionary review. The State requests an extension of 30 days for the filing of the

State's petition for discretionary review.

IV.

Since the Second Court of Appeals' decisions, counsel has filed a brief in *McDowell v. State*, No. 02-17-00410-CR, and has actively worked on the brief in *In the Matter of M.S.*, No. 02-18-00099-CV, currently due on September 10, 2018, after one thirty-day extension. Counsel has also filed answers to the following habeas applications:

- *Ex parte Romero*, No. C-213-W011335-049026-A,
- *Ex parte Johnson*, No. C-372-W011337-1519113-A,
- *Ex parte Tyson*, Nos. C-3-W011338-0870880-E and
C-3-W011339-0899697-E,
- *Ex parte Cavitt*, No. C-396-W011341-1194940-A,
- *Ex parte Bender*, No. C-371-W011330-1445409-AP,
- *Ex parte Tucker*, No. C-1-W011342-1072561-C,
- *Ex parte Tucker*, No. C-3-W011343-0952628-B, and

proposed findings of fact and conclusions of law in the following habeas proceedings:

- *Ex parte Lobo*, No. C-3-W011329-1118195-B,
- *Ex parte Strickland*, No. C-2-W011248-1110045-B,

- *Ex parte Okere*, No. C-371-W011278-1407341-A,
- *Ex parte Reed*, No. C-3-W011247-1302271-A, and
- *Ex parte Tucker*, No. C-1-W-11342-1072561-C.

Counsel also intends to file proposed findings of fact and conclusions of law in *Ex parte Okere*, No. WR-88,371-01, No. C-371-W011282-1407341-B, next week, and represent the State in the following hearings before Tarrant County Special Magstration:

- *Ex parte Sulia Brown*, No. 1503867 (Scheduled for August 28th),
- *Ex parte Rohn Weatherly*, No. WR-61,215-07, No. C-371-011129-1380491-B (Scheduled for September 12, 2018), and
- *Ex parte Travis Reed*, No. C-3-W011247-1302271-A (Scheduled for September 17, 2018 and September 18, 2018).

Finally, counsel is teaching a CLE on the importance of findings of fact in habeas proceedings at the Center for American and International Law on August 31, 2018.

V.

Counsel for Appellant has no objection to this request for extension.

VI.

This extension is not requested for purposes of delay, but to

adequately present to this court the reason it should review the court of appeals' decision. In light of the press of other cases, and the time needed to properly review, reflect upon, and respond to the court of appeals' opinion, which involves an intricate jurisdictional issue, the State prays for additional time in which to prepare and file its petition for discretionary review. *See* TEX. R. APP. P. 68.2(c) ("The Court of Criminal Appeals may extend the time to file a petition for discretionary review if a party files a motion . . . no later than 15 days after the last day for filing the petition").

VII.

Therefore, the State prays that this Court grant State's Motion for Extension of Time for Filing a Petition for Discretionary Review and extend the time for filing of the State's petition to September 17, 2018.

Respectfully submitted,

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Tarrant County, Texas

JOSEPH W. SPENCE
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/s/ Andréa Jacobs _____
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CERTIFICATE OF COMPLIANCE

The total number of words in this motion for extension is 861 words as determined by the word count feature of Microsoft Word 2013.

/s/ Andréa Jacobs _____
ANDRÉA JACOBS

CERTIFICATE OF SERVICE

A copy of the “State’s Motion for Extension of Time to File Petition for Discretionary Review” has been electronically sent to and Ms. Stacey M. Soule, State Prosecuting Attorney, at information@spa.texas.gov, and appellate counsel for Appellant, James E. Williams, Ms. Danielle Kennedy, at thekennedyfirm@att.net, on the 17th day of August, 2018.

/s/ Andréa Jacobs
ANDRÉA JACOBS
Assistant Criminal District Attorney